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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91194095
Party	Defendant Nozala, S.A. de C.V.
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of trademark application Serial Number No. 78910344

For the mark VISION

**ANSWER TO NOTICE OF OPPOSITION NO. 91194095**

In reply to the Notice of opposition filed, with time to answer 4/19/2010, the Applicant answers that:

In the Notice of Opposition, Opposer cited “priority and likelihood of confusion” as the Grounds for Opposition, also citing the following marks as basis for opposition:

- A) U.S Registration No. 1991977 “UNI-BALL VISION” in Class 016 for roller pens;
- B) U.S Registration No. 2371661 “uni-ball VISION EXACT”, in Class 016 for roller pens;
- C) U.S Registration No. 2725249 “uni-ball VISION ELITE”, in Class 016 for roller pens;
- D) U.S Application No. 78963217 “VISION NEEDLE”, in Class 016 for writing instruments.

**Applicant’s mark**

**VISION (78910344)**

**Opposer’s marks**

**uni-ball VISION (1991977)  
uni-ball VISION EXACT (2371661)  
UNI-BALL VISION ELITE (2725249)  
VISION NEEDLE (78963217)**

### **Similarities (Graphic, visual, phonetic)**

There is not a graphic similarity between VISION (application Serial Number No. 78910344, in that follows, “the Application”) and Opposer’s trademarks A, B, C, D. As it is obvious, the composition and design of each of said trademarks is particular and different, thus establishing a visual difference which effectively avoids any risk of confusion.

Regarding phonetics, a comparison must be made not between parts (the word “vision”) of the trademarks wherein some similarities can be found, but instead between the complete wording of each mark. On said basis, it is evident that a lack of similarity exists between the Application and each one of trademarks A, B, C, D.

What is more essential is that any comparison must be made taking in account graphic, visual and phonetic aspects as a whole, not disintegrating the trademark unity. The strength of a trademark in terms of differentiation relies not only on the denominative aspect (note that, in the present case, the word VISION is only a fraction of the Opposer’s marks) or the device, or the phonetics, but in the combination of all the above aspects. Said combination shows clear overall differences, one of them being the very different length of the marks

Last but not least, it is a clear fact that the distinctive part of Opposer’s marks is the term “UNI-BALL” or the term “NEEDLE”, whereas the rest of the words (VISION, EXACT, ELITE) must be considered as a complement of that main term.

Therefore, pacific co-existence of all the above marks is possible since the overall impression of the marks, both of Applicant and Opposer, is different enough to prevent confusion in the marketplace, because consumers’ perception will be different when being in front of the said marks (Applicant’ and Opposer’s).

WHEREFORE, Applicant prays that Opposition No. 91194095 be rejected, and that the mark VISION in International Class 016 be allowed registration.

Respectfully submitted

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